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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,988	11/18/2003	James J. Fitzgibbon	79076	4889

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EXAMINER	
BANGACHON, WILLIAM L	
ART UNIT	**PAPER NUMBER**
2612	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/715,988	FITZGIBBON ET AL.	
	Examiner	Art Unit	
	William L. Bangachon	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7-15 and 17-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-15 and 17-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 February 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Examiner's comments*.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The rejection of claims 2, 9, 12, 18 and 20 under 35 U.S.C. 112, second paragraph, is withdrawn.

Information Disclosure Statement

2. It is noted that there has been no IDS filed with the application. The listing of references in the specification (page 11, last paragraph) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the Examiner on form PTO-892 has cited the references, they have not been considered.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **"RF-ID detector"** recited in claims 8 and 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the Examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Priority

4. Applicant is requested to update the status of the parent applications listed on the 1st paragraph of the specification.

Response to Arguments

5. Applicant's arguments have been fully considered but they are not persuasive.

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., **"dedicated close button"** [page 7, 5th paragraph]) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Further, there is nowhere in the specification that states that the close button is a dedicated close button because as described in page 10, 1st paragraph of the specification, "the specific action button (i.e. close button) may perform multiple functions".

The Examiner respectfully traverses applicant's suggestions that Clark do not disclose a close button 117 producing a coded signal when actuated by a user [Remarks, paragraph bridging pages 6 and 7; page 7, 5th paragraph]. Clark describes in column 3, lines 46-50, that the depression of either pushbuttons 115 or 117 produces a house code set by house code unit 113.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-3 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 3,609,390 (Feldman).

In claims 1 and 11, Feldman teaches of an entry control system (Fig. 2) for permitting authorized users to access a controlled area by moving a barrier or garage door (Fig. 1), comprising:

a switch (11) (i.e. close button) {col. 3, lines 3-15+} or a pushbutton control in a remote transmitter {col. 3, lines 20-28}. Although Feldman do not disclose expressly that the pushbutton control in the remote transmitter produces a coded signal when actuated, an Official notice is taken in that it would have been obvious to one of ordinary skill in the art at the time of applicant's invention that the remote transmitter of Feldman

transmits a signal coded with an ID so that the remote transmitter only controls a desired door having the same ID. Either the switch 11 or pushbutton control in the remote transmitter acts as a close button producing a coded signal when actuated by a user in that the radio receiver receiving the coded signal is connected to the terminals of the switch 11;

an entry request device for accepting a user data input (11 or 13);

a controller (20) operably coupled to the entry request device (11 or 13) and the close button (11) and having an output, as shown in Fig. 2,

such that the controller receives the user data input (i.e. input from pushbutton switch 11 or input from radio transmitter 13) {col. 2, lines 73+; col. 3, lines 18+} and an indication of a position of the barrier (limit switches) {col. 2, lines 43+} and determines based at least in part upon the user data input (i.e. open or close garage door) and the indication of the position of the barrier whether a first control signal should be generated at the output {col. 3, lines 3-12}, the controller also receiving an indication of an actuation of the close button (i.e. depression of switch 11) and selectively generating a second control signal at the output based at least in part upon the indication of the position of the barrier {col. 3, lines 12-15}.

In claims 2 and 12, the system of claim 1 comprising a receiver communicatively coupled to the transmitter at the output, the receiver receiving the first and second control signals {col. 3, line 73+}.

In claims 3 and 13, the system of claim 2 comprising a barrier operator coupled to the receiver, the operator selectively moving the barrier upon receipt of the first and second control signals {col. 3, lines 12-15}.

11. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 3,609,390 (Feldman) in view of USP 6,161,005 (Pinzon).

With regards to claims 9 and 20, although Feldman do not disclose a biometric identification system, these claimed features has been conventionally used to authenticate a user because of the unique characteristics of individuals, and would have been obvious in the system of Clark, as another way to authenticate a user, to one of ordinary skill in the art. As such, Pinzon, in the same field of endeavor, teaches of a remote door locking/unlocking apparatus shown in figure 2A, incorporating a voice recognition system (25) (i.e. biometric identification system) for authenticating a user {Pinzon, col. 6, lines 18-30}. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Feldman to include a voice recognition system, as taught by Pinzon, because a voice recognition system do not require a user to be carrying remote controllers. And, the user does not need to worry about losing the remote controller.

12. Claims 1-5, 7-8, 10-15, 17-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,847,542 (Clark et al).

In claims 1, 4, 11 and 14, Clark et al teach of an entry control system (100) for permitting authorized users to access a controlled area by moving a barrier, comprising:

a secure push-button (117) (i.e. close button) generating a secure signal including a house code 133 (i.e. coded signal) {col. 3, lines 46-50+};

an entry request device for accepting a user data input (115) (i.e. door push-button);

a motor controller (120) operably coupled to the entry request device (115) and the secure push-button (117) and having an output, as shown in Fig. 1,

such that the motor controller receives the user data input {col. 4, lines 34-38} and an indication of a position of the barrier {col. 4, lines 38-46} and determines based at least in part upon the user data input (i.e. up door or down door) and the indication of the position of the barrier whether a first control signal should be generated at the output {col. 7, line 48+}, the motor controller (120) also receiving a secure signal indicating actuation of the close button and selectively generating a second control signal at the output based at least in part upon the indication of the position of the barrier {col. 9, lines 12+}. The secure push-button of Clark is another form of a data input device, the data being a secure command data. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to readily recognize that the transmission of the secure signal is analogous to the claimed "a coded signal indicating an actuation of the close button". The house code in the secure signal of Clark is obviously used by the controller to authenticate a RF transmitter to determine whether the RF transmitter is intended for a certain household or not. This also

prevents non-authorized RF transmitters (i.e. not having the same house code) to operate the barrier {see background of the invention, col. 1, lines 18-26}.

In claims 2 and 12, the system of claim 1 comprising a receiver communicatively coupled to the transmitter at the output, the receiver receiving the first and second control signals {col. 4, lines 11+}.

In claims 3 and 13, the system of claim 2 comprising a barrier operator coupled to the receiver, the operator selectively moving the barrier upon receipt of the first and second control signals {see flowchart of Fig. 2D}.

In claims 4 and 14, the system of claim 1 wherein the entry request device is a keypad {paragraph bridging cols. 4 and 5}.

In claims 5 and 15, the system of claim 1 wherein the first control signal opens the barrier (i.e. movement of the door is upward) and the second control signal closes the barrier {col. 10, lines 46-48. also see flowchart of Figs. 2A-2D}.

In claims 7 and 17, the system of claim 1 wherein the close button changes function after a predetermined time period {col. 9, lines 45+}. In this case, when the close button is pressed the second time, the close button changes to unsecure. Also see col. 7 lines 14-37 with regards to the controller time.

In claims 8 and 19, the system of claim 1 comprising RF receiver (122) for detecting the house code (i.e. RF-ID) coupled with secure and unsecured control signals, and wherein the second control signal is not transmitted unless the controller detects an RF-ID. In this case, if the second control signal (secure signal) is not

detected by the RF-ID receiver (122), it is considered by the controller 120 as not having the secure signal transmitted.

In claims 10 and 21, the system of claim 1 wherein the generation of the control signals is delayed for a predetermined time after the actuation of the specific action button. See col. 7, lines 12-37 with regards to the motor controller timer. In this case, if the garage door is moving up or down and the specific action button is triggered to cause the garage door to move to the opposite direction {col. 10, lines 46-49; col. 11, lines 5-9}. An Official notice is taken in that it would have been obvious to one of ordinary skill in the art to readily recognize that the generation of the control signal to reverse the direction of the motor is delayed for a predetermined time, depending on the type of motor used (usually given in the motor specification), to avoid ruining the motor.

In claim 18, it would have been obvious to one of ordinary skill in the art to recognize that the secure button (close button) of Clark functions as a stop button whenever an obstruction is detected or the motor times out {col. 8, lines 21+}.

13. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,847,542 (Clark et al) in view of USP 6,161,005 (Pinzon).

With regards to claims 9 and 20, although Clark do not disclose a biometric identification system, these claimed features has been conventionally used to authenticate a user because of the unique characteristics of individuals, and would have been obvious in the system of Clark, as another way to authenticate a user, to one of ordinary skill in the art. As such, Pinzon, in the same field of endeavor, teaches of a

remote door locking/unlocking apparatus shown in figure 2A, incorporating a voice recognition system (25) (i.e. biometric identification system) for authenticating a user {Pinzon, col. 6, lines 18-30}. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have a voice recognition system in the system of Clark, as taught by Pinzon, because a voice recognition system do not require remote controllers to be carried by a user. A user does not need to worry about losing or carrying a remote controller.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Office Contact Information

15. Please note that the Examiner's supervisor and art unit has been changed.

16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to William Bangachon whose telephone number is **(571)-272-3065**. The Examiner can normally be reached on Monday – Thursday, 8:30 AM – 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy Garber can be reached on **(571)-272-7308**. The fax phone numbers for the organization where this application or proceeding is assigned is **571-273-8300** for regular and After Final formal communications. The Examiner's fax number is **(571)-273-3065** for informal communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

William L Bangachon
Examiner
Art Unit 2635

May 1, 2006

WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Inventor: James J. Fitzgibbons
U.S. Application No. 10/715,988
Fitch, Even, Tabin & Flannery Docket number 5569/79076
Timothy R. Baumann, Esq. Telephone: (312)577-7000

APPROVED 4/19/06

REPLACEMENT SHEET

Fig. 5